REMARKS

Claims 1, 4-6, 8, 9, and 11-14 are now pending in this application for which applicant seeks reconsideration.

Amendment

Claim 2, 3, 7, and 10 have been canceled, claims 1, 6, 9, 11, 12, and 14 have been amended. Independent claims 1 and 9 have been amended to incorporate the subject matter of claims 2 and 3, while moving certain features to the dependent claims. Specifically, claim 6 has been placed in independent form, depending from claim 1, while new claim 15 (which parallel claim 6) depending from claim 9 has been added. Moreover, independent claim 9 has been amended to parallel claim 1. No new matter has been introduced.

Art Rejection

All pending claims 1-14 were rejected under 35 U.S.C. § 102(b) as anticipated by Nozaki (USPGP 2002/0036800). In the last reply, applicant explained that it is improper for the examiner to not give any weight to the information processing terminal's permission-request sending feature, namely the information processing terminal sending a copy permission request to the server each time before the downloaded contents are to be copied to any external apparatus or recording medium.

In response, the examiner disagrees that he ignored the permission-request sending feature because the art rejection addresses how Nozaki's paragraphs 100, 113, 141, and Fig. 1 disclose this feature. The examiner's also remarks that applicant failed to address and counter the art rejection with evidence or showing of how Nozaki does not anticipate the function recitation. Applicant disagrees with the examiner's characterization of applicant's arguments.

First, the burden lies initially with the examiner to point out how Nozaki anticipates the claims. The burden shifts to applicant only if the examiner has clearly explained how the applied reference discloses each and every claim limitation, or the reference itself is sufficiently clear as to each and every claim limitation.

Second, in contrast to the examiner's assertion, applicant respectfully submits that the examiner is the one who has failed to counter how Nozaki's passage relied upon by the examiner discloses the claimed limitation. Applicant has specifically pointed out why Nozaki fails to disclose the permission-request sending feature. Specifically, applicant explained that Nozaki does not seek permission from the contents distribution server each time a PC requests a copy of the already downloaded contents from the server because the PC itself manages the

permission based on the locally stored copy count data, which the PC changes based on the header data sent by the server.

More specifically, while Nozaki discloses the problem associated with paying multiple fees for the same downloaded contents, such as due to the user using different computers, Nozaki takes a different approach to solving this problem than the claimed invention. As previously explained, in Nozaki, the user information, including copy control data, is stored LOCALLY in the user PC. The server 1 merely sets available copy count information of music data to distribute the available copy count information in response to a request by the user PC. The user PC duplicates the music data based on the limitations imposed by the available count information. See paragraph 63:

> [0063] The available copy count setting section 22 is a block to set available copy count information of distribution-use music data based on the desired available copy count of the distribution-use music data, distribution of which has been requested by the PC. More specifically, data containing the available copy count information thus set by the available copy count setting section 22 is sent to the PC, and **the PC makes a duplicate of the data based on limitations imposed by the available copy count information**.

In Nozaki, rewriting of the copy control data each time the music data is copied is done at the PC side. See Fig. 5, paragraph 80, Figs. 4 (which shows the arrangement of the PC) and 10, and paragraphs 140-143.

> [0141] In S42, **the data copying section 26 checks the available copy count information of the distribution-use music data, so as to confirm whether the current available copy count information is at or exceeds the required available copy count. Here, if the current available copy count information is less than the required available copy count, unavailability of copying is informed to the user before the process ends**. In this case, if required, the user may make the request for reuse.

The available copy count data is always rewritten at the PC side when the music data is copied. The passages relied upon by the examiner at best disclose that the distribution server 1 includes in the download contents, a header containing a copy count or reproducible environment information. Nozaki does not disclose anywhere that the server changes the count information or keeps track of copy count information or that the PC sends the count information to the server each time it copies the already downloaded music contents. Indeed, while the

server initially sets the maximum number of copies the music contents can be copied, it does not keep track of the copy count at all. That is, in Nozaki, the PC side keeps track of number of times the already downloaded contents have been copied. The server side merely provides the total number of allowed copies to be made that it initially set, in the header of the downloaded contents. The total number provided in the header does not change. That is, the server does not decrement each time a copy is made by the PC.

In contrast, in the claimed invention, the server apparatus keeps track of the number of times the already downloaded contents have been copied by the requirement of the PC sending a copy permission request to copy the already downloaded music data from the server each time the music data is to be copied within the available copy count. This is different from the way Nozaki keeps track of the copy count. The examiner has yet to address the difference or point out how Nozaki's server keeps track of the copy count.

The reuse request the examiner appears to be relying upon is only made by the PC after it determines that the copy count remaining is zero. The reuse request has nothing do with the manner in which Nozaki maintains the available count copy.

In this respect, applicant respectfully urges the examiner to reconsider the differences between the claimed feature of each of the information processing terminals seeking a copy permission each time the data contents are copied versus Nozaki's technique of relying exclusively on the locally stored copy count data.

Moreover, in the interest of expediting prosecution, independent claims 1 and 9 include the features of claims 2 and 3. Specifically, these claims now define the user ID information as representing a plurality of information processing terminals belonging to one user from among the at least one user and defines the copy control data as including a total number of times the downloaded contents are allowed to be copied to an external apparatus or recording medium. These claims further define decrementing the total number of times the downloaded contents are copied from any of the information processing terminals belong to the one user, and supplying the downloaded contents, which have been previously downloaded by the one user, without executing a fee-charging process, to any of the information processing terminals belonging to the one user, if the number of times the previously downloaded contents have been copied does not exceed the total number of times allowed to be copied.

Applicant submits that Nozaki also does not disclose or teach the features of claim 3 now set forth in the independent claims. In maintaining the rejection, the examiner asserts that Nozaki's paragraphs 12-17, 89, 101, and Fig. 2: 2a, 2b, 3, 5, and 6 disclose claim 3. But these

passages at best merely disclose the distribution server 1 including in the download contents, a header containing a copy count or reproducible environment information that the PC relies upon to change the count information locally. As previously mentioned, the copy count supplied in the header does not change. Rather, the PC locally changes the copy count that it manages.

<div align="center">Conclusion</div>

For the foregoing reasons, applicant submits that the pending claims distinguish over Nozaki and are in condition for allowance. Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicant urges the examiner to contact the undersigned to expedite prosecution.

Respectfully submitted,

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